

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS

In re:

STUART GRAEME HARDMAN

The Debtor.

Chapter 7

Case No. 16-30419

TOM and ROSE WESOLEK

Plaintiff

Adv. Proc. No. 16-00667

v.

STUART GRAEME HARDMAN

Debtor

PLAINTIFF'S MOTION TO PLACE ON CALL
AND REQUEST FOR SANCTIONS

Tom and Rose Wesolek ("Plaintiff" or the "Wesoleks"), by and through their attorney, brings this Motion to Place this Matter on the Court's Status Call and for Sanctions, and in support hereof states as follows:

1. The court recently assigned this matter out to Judge Cassling for purposes of a judge-guided mediation.
2. Stuart Hardman unilaterally cancelled the mediation a day before mediation statements were due to be delivered to Judge Cassling.
3. Attached as Ex. 1 is a copy of the email from Hardman's attorney to Judge Cassling's clerk. I did not authorize counsel to make any representations on my behalf such as "both sides have expressed frustration". My clients were ready willing and prepared to attend mediation in good faith with the aim of resolving this case.
4. The court directed the parties to participate in the mediation in good faith. Despite some pre-mediation discussions in which Stuart Hardman increased his offer, his failure and refusal to participate in the mediation was not done in good faith.

5. The pre-mediation negotiations between the parties was not mediation. The purpose of mediation was to have a skilled justice help guide the parties to explore the issues and resolve their differences. Judge Cassling's approach to this matter was surprisingly generous. He was going to dedicate an entire day to the parties. He specifically instructed the parties to prepare up to a 5 page letter to be sent to opposing counsel and to be delivered to the judge. The Wesolek's counsel complied with this directive and spent time preparing the letter all for naught.

6. It is the belief of Wesolek's counsel that the parties would have benefitted greatly from the mediation, particularly one that appeared to be focused on the facts and issues.

7. In light of Hardman's refusal to participate in the mediation in good faith, it is requested that he reimburse the Wesoleks for their attorney's time in preparing for the mediation and for the cost of preparing and filing this motion. Counsel will present an invoice for this time with the court's approval, but the total time expended 3.01 hours at the rate of \$250/hour for a total of \$752.50.

8. It is further requested that the court return this matter to its call so that it can move forward on the Wesolek's pending motions for summary judgment without waiting for the current status date of June 20, 2018.

WHEREFORE, Plaintiff requests that this Court enter an order directing Stuart Hardman to pay \$752.50 to the Wesoleks as a sanction for failing to participate in the mediation in good faith and that the matter return to the court's call to address the pending motions for summary judgment.

Respectfully Submitted,
Tom and Rose Wesolek

By: 
Their Attorney

Whiteman Borden LLC
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Mediation 16 AP 0667

From: Amanda Adams <amandaadamsjd@gmail.com>
To: Anthony_Watson@ilnb.uscourts.gov, Adam Whiteman <Adam@whitemanborden.com>, danny_duerdoth@ilnb.uscourts.gov, susan_pistoorius@ilnb.uscourts.gov, Stuart Hardman <stuarthardman@att.net>
Subject: Mediation 16 AP 0667
Date: Tuesday, April 17, 2018 1:03 PM
Size: 9 KB

We have attempted pre conference resolution on the above referenced matter. However, both sides have expressed frustration and are very far apart on numbers, and my client has instructed me to stop the mediation process.

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Ex 1